

The Board's review of preliminary hearing orders is limited. Not every error in law or fact is subject to review. The Board can review only allegations that the ALJ exceeded his/her jurisdiction. K.S.A. 1999 Supp. 44-551. This includes review of issues described in K.S.A. 1999 Supp. 44-534a as jurisdictional issues. Those jurisdictional issues are whether claimant suffered an accidental injury, whether the injury arose out of employment, whether notice is given or claim timely made, and whether certain other defenses apply.

The term certain defenses refers to defenses which dispute the compensability of the injury under the Act. Carpenter v. National Filter Service, Docket No. 81,106 (Kan. App. 1999).

The issues raised in this appeal are not jurisdictional issues listed in K.S.A. 1999 Supp. 44-534a and do not otherwise amount to allegations that the ALJ exceeded his jurisdiction. They are allegations of error in applying the law to issues over which the ALJ has jurisdiction.

This holding concerning the Appeals Board's jurisdiction to review preliminary orders has not only been explained in many previous Appeals Board decisions, but it has also been previously explained in this case. Respondent appealed the ALJ's August 5, 1999 preliminary Order which, *inter alia*, granted temporary total disability compensation at the rate of \$366 per week. In our September 28, 1999, Order the Appeals Board held that the average weekly wage and compensation rate issues were not jurisdictional. It should not be necessary to educate counsel a second time.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeals from the preliminary hearing Order entered by Administrative Law Judge John D. Clark on November 10, 1999, should be, and are hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February 2000.

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BOARD MEMBER

c: Jeff T. Tevis, Wichita, KS  
Daniel N. Allmayer, Olathe, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director